IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

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WRIT PETITION No.12506 OF 2006

Between:

M/s.Fresh & Honest Care Ltd.,
West Marredpally, Secunderabad,
rep. by its Branch Manager
Sri C.Ravi Kumar.

..... PETITIONER

AND

The Additional Commissioner (CT Legal),
Commercial Taxes, Andhra Pradesh,
Hyderabad, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.12506 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

Aggrieved by an order of the 1st respondent, the present writ petition is filed with a prayer as follows:

> **"… to issue a Writ, order or direction, especially one in the nature of Writ of Mandamus, declaring the order passed by the 1st respondent in CCT's Ref.No:LIII(2)/314/2006 Dated 11.5.2006 as illegal and arbitrary and set aside the same and desist the respondents from collecting the disputed tax 8,93,051/- till the disposal of the appeal before the A.P. Sales Tax Appellate Tribunal, Hyderabad, …"**

The petitioner is a registered dealer under the A.P. VAT Act, 2005 and an assessee on the rolls of the 3rd respondent. For the assessment year commencing from 1st April, 2005 to 31st August, 2005, the petitioner was assessed by the 3rd respondent to a tune of Rs.22,46,518/- towards tax. The petitioner disputed its liability to the extent of Rs.8,93,051/- and preferred an appeal before the 2nd respondent. The 2nd respondent by his order dated 26.12.2005 dismissed the appeal and the petitioner carried the matter in further appeal to the Sales Tax Appellate Tribunal. The appeal is said to be pending. In view of the pendency of the appeal before the Tribunal, the petitioner moved an application seeking stay of recovery of the tax

pursuant to the above-mentioned assessment. The petitioner claims to have paid the undisputed amount of tax and also paid an amount of Rs.4,46,511/- from out of the disputed amount of tax. However, the stay application of the petitioner was rejected and hence, the present writ petition.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petition can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of the disputed tax, referred to earlier, on condition that the petitioner deposits 50% of the disputed tax. The amount, if any, paid towards the disputed tax, shall be given credit while determining the 50% amount to be deposited, as ordered by this Court.

With the above direction, the writ petition is disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

6th JULY, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

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WRIT PETITION No.12506 OF 2006
(Per Sri Justice J.Chelameswar)

6th JULY, 2006